



Testimony in Support of

SB 650, AAC Temporary Restraining Orders HB 6848, AA Protecting Victims of Domestic Violence

**Judiciary Committee
March 11, 2015**

Good morning Senator Coleman, Representative Tong and members of the committee. My name is Allison Roach and I am an Attorney Advocate with the Domestic Violence Crisis Center (DVCC), a member program of the CT Coalition Against Domestic Violence (CCADV). The DVCC serves the communities of Stamford, Norwalk, Westport, New Canaan, Darien, Wilton, and Weston and is the only domestic violence victim service provider in CT with attorneys on staff charged with providing representation to victims seeking civil restraining order.

We urge your support of Senate Bill 650, An Act Concerning Temporary Restraining Orders and House Bill 6848, An Act Protecting Victims of Domestic Violence.

SB 650, AAC Temporary Restraining Orders

Law Enforcement for Service

Victims of domestic violence are 70 times more likely to be killed in the two weeks after leaving their abuser than any other time. It is important that during this time victims have access to the court for protection via restraining orders. However, applying for a restraining order and being granted an ex parte order is only the first step. Successful service of the ex parte order is critical to a victim's ability to ensure the restraining order remains in place for a full year.

Unfortunately, difficulty navigating the current process to accomplish service on an offender is overwhelmingly cited as a significant barrier, particularly for those victims without an attorney or an advocate. SB 650 proposes that law enforcement, in addition to state marshals, be permitted to serve temporary ex parte restraining orders when the victim indicates on the restraining order application that the offender has firearms or ammunition. This change is vital to the safety of both the victims and the state marshals.

Broadening the statute with respect to means of service for these types of cases would increase the protection of victims, while not overburdening law enforcement. In Fiscal Year 2013, only 628 of the 5,026 ex parte orders granted **statewide** included allegations of firearms. In DVCC's catchment area, only 23 of the 138 ex parte orders granted involved firearms.

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We also encourage you to take a step further and provide for law enforcement service at a victim's request - even if he or she does not know if the offender has access to firearms. As victims are in the best position to know how dangerous an offender is, it is in the victim's and state marshal's best interest to have the ex parte restraining order served by law enforcement.

Lastly, we also encourage you to include the Department of Corrections and Parole Officers as parties who are sanctioned to effectuate service of restraining orders.

Extension for Service

Currently, if service cannot be effectuated five (5) days prior to the hearing and the respondent does not appear, the ex parte order expires, no new order is entered and the victim must re-file their application. Understandably, many victims may find this process daunting and discouraging and ultimately give up, which compromises their safety. Providing the court the explicit authority to extend the ex parte order so that service can be reattempted is an easy fix that ensures the system is providing adequate protection to victims at a time when they are experiencing significant trauma and putting themselves at the most risk.

Methods of Service

Broader options of service are necessary to effectuate service in a greater number of cases. This is particularly true for situations in which an offender has fled and cannot be physically located and/or is purposefully avoiding service. The best course of action is to allow either the state marshal or law enforcement officer to inform/notify an offender by telephone that they are subject to an ex parte restraining order and that a hearing has been scheduled for a set date and time. The success of this method has been demonstrated in Massachusetts, who as a result of the use of verbal notification in combination with other methods of service, reports a 95% success rate.ⁱ

Short Form Notification

We also ask that language be added to SB 650 to allow for a Short Form Notification ("short form"). Currently, once an ex parte restraining order has been served, the entire application, including the victim's affidavit, is served on the offender. To demonstrate that the victim qualifies for a restraining order, he or she must demonstrate to the court that they are in "immediate and present physical danger."ⁱⁱ To do so the victim must divulge to the court details about the relationship and the abuse that has occurred. Often times this may be information that could place the victim in further danger... Instead of including the victim's affidavit, instructions can be included with the documents that are served providing the offender with instructions on how they can



view the complete application, including the affidavit. The burden is then placed on the offender to find out what is stated in the affidavit. (Illinois Short Form Included as example)

Civil Legal Advocates

As previously stated, victims are at the highest risk of lethality when they decide to leave their offender. It is vital at this crucial point that victims have access to services and establish a safety plan. Victims need access to certified domestic violence advocates in all family courts that can assist them in completing restraining order applications. Currently, only four (4) civil courts provide such assistance. In the other twelve (12) civil courts across the state, victims are forced to fend for themselves when filing for a restraining order, missing the safety-planning component in the process. Increased funding for additional certified domestic violence advocates in each family court will help increase the safety of victim. Safety is key to helping a victim of domestic violence move forward successfully.

SB 650/HB 6848 – Provision to Remove Firearms from those subject to an ex parte restraining order

Both bills propose that offenders subject to an ex parte restraining order turn over any firearms and restrict that offender's ability to purchase one for as long as the order is in place. This provision is a common-sense measure that would provide protection during an emotionally volatile time when lethality indicators are very high. Domestic violence is about power and control; if the abusive partner feels as though they are losing control of their partner, they may make desperate and deadly decisions to regain that control. We urge you to join the 20 other states who have enacted this protection. Further, we implore you to reduce the timeframe in which offenders are to turn over their firearms from 2 business days to 24 hours. Let us enable ex parte orders to serve the purpose for which they were intended – to provide immediate protection to victims of domestic violence.

Again, DVCC urges your support of SB 650 and HB 6848. I would like to thank you for your consideration.

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Short Form Notification

☐ **Order of Protection** ☐ **Civil No Contact Order** ☐ **Stalking No Contact Order**

Date of Service: _____ Time: _____ Respondent's Name (Person Served): _____ Respondent's Date of Birth: _____ Petitioner's Name (Person Protected): _____ Other Protected Persons: _____ _____ _____	A protective order was entered against you on _____ in _____ County Court File #: _____ Protected Address: _____ _____ _____ <input type="checkbox"/> A hearing is set on this matter. If you fail to appear, a default order may be entered against you. The hearing details: Date: _____ Time: _____ Location: _____
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The following are **some** of the restrictions placed on you. You must obtain a copy of the order for a complete list of restrictions. Instructions for obtaining the full order are on the back of this form.

Order of Protection	1. <input type="checkbox"/> Do not further abuse, harass, intimidate, or harm the petitioner or other protected persons. 2. <input type="checkbox"/> Do not enter the petitioner's residence. 3. <input type="checkbox"/> Stay away from petitioner and protected persons at additional locations. 5. <input type="checkbox"/> Petitioner has been given physical care and possession of child(ren). 8. <input type="checkbox"/> Do not remove child(ren) or hide the child(ren) from the petitioner. 9. <input type="checkbox"/> You must appear in court or <input type="checkbox"/> you must appear in court with the child(ren). 10. <input type="checkbox"/> Petitioner has been granted possession of certain personal property. 11. <input type="checkbox"/> Do not damage, destroy, conceal, or sell certain personal property. 14. <input type="checkbox"/> Do not enter or remain in the residence while under the influence of drugs or alcohol. 15. <input type="checkbox"/> Do not access child(ren)'s school, medical, or other records. 17. <input type="checkbox"/> You are also ordered to _____ and <input type="checkbox"/> You shall not possess a firearm. (14.5)
Civil No Contact Order	1. <input type="checkbox"/> You must stay at least _____ feet from petitioner and protected persons. You are prohibited from coming to _____. 2. <input type="checkbox"/> Do not contact the petitioner or protected persons in any way. 3. <input type="checkbox"/> Do not take, hide, or damage the property of the petitioner or protected persons.
Stalking No Contact Order	1. <input type="checkbox"/> Do not threaten to commit or commit stalking. 2. <input type="checkbox"/> Do not have contact with the petitioner or protected persons. 3. <input type="checkbox"/> Do not come within _____ feet of petitioner's _____ residence _____ school _____ daycare or workplace.

Notice to respondent: You are subject to arrest and may be charged with a misdemeanor or a felony if you violate any of the terms of this order.

NOTE TO PRINTER: ONLY THIS PAGE TRIMS HERE.

Short Form Notification

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Notice to respondent: You are subject to arrest and may be charged with a misdemeanor or a felony if you violate any of the terms of this order.

Respondent's current address: _____

Affidavit of Service

I certify that on the _____ day of _____ of 20____, in _____ County at _____ a./p. I personally served this notice and that I orally informed the person of the conditions checked and the enforcement notice listed.

Officer _____	Agency _____
Signature _____	Agency Report# _____

Short Form Notification Important Information for Respondent

This is a short form notification of a protective order and does not contain all the information you need to know about the order.

The petitioner may have requested additional relief not indicated on this form, such as child support, maintenance, financial reimbursement, and/or custody of children. A 2-year plenary order of protection may be entered by default for any of the remedies sought in the petition if you fail to appear on the specified hearing date or on any subsequent hearing date agreed to by the parties or set by the court.

The order is now enforceable. You must report to the office of the sheriff or the office of the circuit court in _____ County to obtain a copy of the order. You are subject to arrest and may be charged with a misdemeanor or felony if you violate any of the terms of the order.

To obtain a copy of the full petition and protective order:

Go to the sheriff's office or Circuit Court Clerk in the county where the order was issued to obtain a copy of the full order and the petition. Be sure to bring this form and proper identification (driver's license or state ID) with you to obtain a copy of the full order. The full order explains in more detail what the judge has ordered. The petition contains the allegations made by the petitioner. **Failing to obtain the full order does not protect you from arrest if you violate any of the terms of the order. Violation of the order can result in misdemeanor or felony charges against you.**

If this order is an Order of Protection issued under the Illinois Domestic Violence Act, any Firearm Owner's Identification Card issued to you has been revoked. You may also be subject to federal penalties for possessing, transporting, or accepting a firearm or ammunition under the Gun Control Act (18 U.S.C. § 922 9(g)(8)).

Law enforcement agency: please write or stamp addresses here.

Sheriff's Office

Circuit Court Clerk

Respondent's Copy Short Form Notification

Provided by the Office of Illinois Attorney General Lisa Madigan.
Printed by authority of the State of Illinois. This material is available in alternate format upon request.



^{i i} In *Com V. Melton*, the court cited the 14th Amendment of the United States Constitution, stating that “No due process violation results in a prosecution for violation of an abuse of protection order if the commonwealth proves that the defendant had actual knowledge of the terms of an order, despite any failure of service. Com. v. Melton, 77 Mass. App. Ct. 552, 555-56, 933 N.E.2d 125, 128-29 (2010)

ⁱⁱ CGS 46b-15